

Application Serial No. 10/598,223  
Response dated September 22, 2008  
Reply to Office Action dated September 3, 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/598,223 Confirmation No. 1470  
Applicant : Herbert E. Schwartz  
Filed : August 22, 2006  
Title : ARTICULAR CARTILAGE FIXATION DEVICE AND METHOD  
  
TC/A.U. : 3774  
Examiner : Joshua H. Levine  
  
Atty. Docket No.: SBL0008-01  
Customer No. : 00832

ELECTION

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned contacted the Examiner on September 22, 2008 to bring to the Examiner's attention the fact that the embodiment of Figs. 44 and 45 of the present application did not appear to have been taken into account with respect to the Examiner's issuance of the Office Action dated September 3, 2008 setting forth an Election of Species Requirement. The Examiner agreed that this was the case, and that the embodiment of Figs. 44 and 45 should have been set forth as a species.

Responsive thereto, Applicant hereby elects the species of Figs. 44 and 45, without prejudice, for prosecution in the instant application. Claims 35-50 are readable on the elected species.

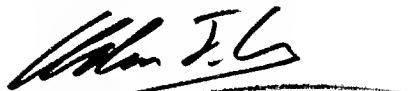
Applicant reserves the right to pursue the subject matter of the non-elected species in one or more divisional applications.

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It is believed that the above represents a complete response to the Official Action. In the event Applicant has overlooked the need for an extension of time or payment of fee, Applicant hereby petitions therefore and authorizes that any charges be made to Deposit Account No. 02-0385, Baker & Daniels LLP.

If any question concerning this application should arise, the Examiner is invited to telephone the undersigned at 260-424-8000.

Respectfully submitted,



Adam F. Cox  
Registration No. 46,644

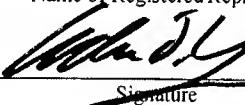
Attorney for Applicant

AFC/mh

CERTIFICATE UNDER 37 C.F.R. 1.8(B)

I hereby certify that this correspondence is being electronically submitted to the United States Patent and Trademark Office.

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Adam F. Cox, Reg. No. 46,644  
Name of Registered Representative

  
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Signature

\_\_\_\_\_  
September 22, 2008  
Date